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# CERTAIN NONQUOTA CHEESE FROM BELGIUM, DENMARK, THE FEDERAL REPUBLIC OF GERMANY, FRANCE, IRELAND, ITALY, LUXEMBOURG, THE NETHERLANDS, AND THE UNITED KINGDOM

COMPLETED

ORIGINAL

Determination of No Material Injury or Threat Thereof in Investigations Nos. 701-TA-52–60 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations

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# UNITED STATES INTERNATIONAL TRADE COMMISSION

## COMMISSIONERS

Bill Alberger, Chairman

Michael J. Calhoun, Vice Chairman

George M. Moore

Catherine Bedell

Paula Stern

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Kenneth R. Mason, Secretary to the Commission

---


Prepared principally by:

J. Fred Warren, Office of Industries
Norman R. Elrod, Office of Economics

Assisted by:

N. Tim Yaworski, Office of the General Counsel
Chandrakant Mehta, Office of Investigations

---

Robert Eninger, Senior Investigator



**Address all communications to**

**Office of the Secretary**

**United States International Trade Commission**

**Washington, D.C. 20436**


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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigations Nos. 701-TA-52 (Final) through 701-TA-60 (Final)

Certain Nonquota Cheese from Belgium, Denmark, the Federal Republic of Germany, France, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom

Determination

On the basis of the record 1/ developed in investigations Nos. 701-TA-52 (Final) through 701-TA-60 (Final), the Commission unanimously determined, pursuant to section 104(a)(2) of the Trade Agreements Act of 1979, that an industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports of certain Fiore Sardo and Pecorino cheeses made from sheep's milk 2/ and certain Feta cheese made from goat's or sheep's milk 3/ from the nine member states of the European Communities, either individually or collectively, with respect to which the Department of Commerce has found that a subsidy is being provided.

In arriving at its determination, the Commisssion gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

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1/ The record is defined in sec. 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

2/ I.e., Fiore Sardo and Pecorino cheeses, made from sheep's milk, not grated or powdered, of a fat content, by weight, not exceeding 40% and a water content, by weight, of the non-fatty matter not exceeding 47%, provided for in TSUS items 117.65, 117.67, or 117.70.

3/ I.e., Feta cheese, made from goat's or sheep's milk, not grated or powdered, of a fat content, by weight, not exceeding 40%, a water content, by weight, of the non-fatty matter exceeding 62% but not exceeding 72%, and with a fat content, by weight, of the dry matter of 39% or more, all the foregoing in containers holding brine, provided for in TSUS items 117.70, 117.75, or 117.88.

Background

Section 104(a)(2) of the Trade Agreements Act of 1979 requires the United States International Trade Commission to conduct countervailing duty investigations in cases in which the Commission has received the most current net subsidy information pertaining to any countervailing duty order in effect on January 1, 1980, which had been waived pursuant to section 303(d) of the Tariff Act of 1930, and which applies to merchandise other than quota cheese as defined in section 701(c)(1) of the Trade Agreements Act of 1979.

On January 7, 1980, the Commission received notice from the U.S. Department of Commerce that countervailing duty cases on dairy products (other than quota cheeses) from member states of the European Communities (EC) were being referred to the Commission for an injury determination. The collection of duties on such items had been waived pursuant to section 303(d) of the Tariff Act of 1930.

On February 5, 1980, the Commission received from the Department of Commerce the most current net subsidy information available with respect to the subsidies bestowed on nonquota cheese. Accordingly, the Commission instituted these investigations on imports of such cheese from the member states of the EC. Notice of the institution of the investigations and of the public hearing to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's New York City Office. Notice was also given by publishing the notice in the Federal Register of March 12, 1980 (45 F.R. 16050). The public hearing was held in Washington, D.C., on May 21, 1980.

Views of Chairman Bill Alberger,
Vice Chairman Michael J. Calhoun and Commissioner Paula Stern

In order for the Commission to reach an affirmative determination in the subject investigations 1/, it is necessary to find that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of certain Fiore Sardo, Pecorino and Feta cheeses from member states of the European Communities (EC) upon which the Department of Commerce (Commerce) has found that a subsidy is being provided by the EC. 2/ The imposition and collection of the countervailing duties on such products were waived by the Department of the Treasury (40 F.R. 21720) pursuant to section 303(d) of the Tariff Act of 1930 (19 U.S.C. 1303(d)).

The domestic industry 3/

Fiore Sardo and Pecorino cheeses are made exclusively from sheep's milk. Virtually all sources contacted during the Commission's investigations

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1/ These investigations were conducted pursuant to section 104(a)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 Note).

2/ On Feb. 5, 1980, Commerce reported that subsidies on certain Fiore Sardo and Pecorino cheeses ranged from 59.9 cents per pound for exports from Italy to 95.1 cents per pound for exports from West Germany. The subsidies on certain Feta cheese varied from 16.6 cents per pound for exports from Italy to 36.8 cents per pound for exports from West Germany.

3/ Section 771(4)(A) of the Tariff Act of 1930, defines industry as:

> (T)he domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.

Like product is in turn defined in section 771(10) as:

> A product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.

agreed that cheeses like or cheeses similar in charcteristics and uses with Fiore Sardo and Pecorino are not produced in the United States. Indeed such imported cheeses afford little, if any, competition to domestic cheeses made from cow's milk. Thus it is our view that there is no domestic industry producing a product like or a product similar in characteristics and uses with these imported cheeses. As well, there is no information on the record to indicate any attempt to establish production of such products in the United States. Consequently, there is no domestic industry which can be materially injured by such imports or threatened with material injury and material retardation of the establishment of an industry does not exist.

Although Feta cheese can be made from goat's, sheep's, or cow's milk, or combinations thereof, only that not containing cow's milk is subject to the waived countervailing duty order relating to subsidized imports from the EC. No firms in the United States are known to produce Feta cheese made from goat's or sheep's milk, however, six firms are known to produce Feta cheese from cow's milk. Thus, there is no domestic cheese like the goat's or sheep's milk Feta, but Feta cheese from cow's milk is most similar in characteristics and uses to Feta cheese from goat's or sheep's milk. Therefore, we have concluded that the appropriate domestic industry against which the impact of subsidized imports of Feta cheese from the EC should be measured consists of those facilities in the United States producing Feta cheese from cow's milk.

Material injury or threat thereof

The cow's milk Feta cheese industry experienced declining production, capacity utilization, shipments, and profitability during the 1977-79

period. In addition, the share of the domestic market for Feta cheese supplied by U.S. producers fell during this period. Although producers' prices increased, the increase was insufficient to cover increased production costs. Whatever difficulties the domestic industry may have experienced, however, were not by reason of subsidized imports from the EC of Feta cheese made from goat's or sheep's milk.

Imports from the EC of Feta cheese made from goat's or sheep's milk averaged 0.5 million pounds annually during 1977-79, showing no discernible trend. Imports of Feta cheese from the EC remained at about 5 percent of the U.S. market during this period. Imports of Feta cheese made from goat's and sheep's milk from the EC, in fact, declined as a percentage of apparent U.S. consumption of all Feta cheese from 6.4 percent in 1977 to 5.1 percent in 1979.

The Commission's investigations also revealed that there has been no price undercutting by the imported subsidized merchandise and no pattern of price suppression or depression by reason of such imports. Prices received by importers of Feta cheese made from goat's or sheep's milk and imported from the EC were consistently and substantially higher during 1977-79 than prices received by importers of such cheese from non-EC sources or prices received by U.S. producers for domestically produced Feta cheese made from cow's milk. For example, U.S. produced Feta cheese sold for $1.17 per pound in 1979 compared with imported Feta from the EC which sold at approximately $1.80 per pound in that year. Prices for non-EC cheese were between those charged for domestic and EC cheeses. Moreover, in response to the Commission's questionnaires, only one firm reported lost sales of Feta cheese to similar EC imports. The Commission was unable to confirm that such sales were, in fact, lost to subsidized imports.

In light of the facts that the Commission found no evidence of lost sales due to subsidized EC imports, that prices of such imported products were consistently and substantially higher than prices of comparable domestic products, and that imports from the EC accounted for only a relatively small percentage of domestic consumption, there is no indication that the difficulties which the domestic industry may have experienced to date can be attributed to such subsidized imports of Feta cheese from the EC. Further, because most of the goat and sheep population of the EC is believed to be used for the production of meat rather than milk and the milking of sheep and goats is particularly labor intensive 1/, we do not forsee any threat of material injury to domestic producers of Feta cheese from EC imports.

Therefore, on the basis of the record in these investigations, we determine that an industry in the United States is not materially injured, is not threatened with material injury, and the establishment of an industry is not materially retarded by reason of imports of certain Fiore Sardo and Pecorino cheeses and certain Feta cheese from the member states of the EC, individually or collectively.

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1/ Report at A-8.

Findings of fact

Our conclusion is based on consideration of the economic factors enumerated by section 771(7) of the Tariff Act of 1930 (19 U.S.C. 1677(7)).

A. Volume of imports

1. U.S. imports of Pecorino cheese from the EC rose from 6.2 million pounds in 1977 to 6.7 million pounds in 1978, and then declined slightly to 6.6 million pounds in 1979; imports of such cheese from the EC were supplied entirely by Italy. Imports of Feta cheese made from goat's or sheep's milk from the EC (again supplied entirely by Italy) averaged about 0.5 million pounds annually during 1977-79, showing no discernible trend. No imports of Fiore Sardo cheese from the EC were reported. (Report at A-5 and A-10, table 1)

2. Imports of Feta cheese made from goat's or sheep's milk from the EC (all of which came from Italy), expressed as a percentage of apparent U.S. consumption of all Feta cheese declined from 6.4 percent in 1977 to 5.1 percent in 1979. Imported Pecorino cheese supplies all of the U.S. market for such cheese. (Report at A-11 and A-12)

3. Imports of Feta cheese made from goat's or sheep's milk from non-EC countries (chiefly in Eastern Europe) rose from 3.4 million pounds in 1977 to 5.5 million pounds in 1979. The share of the domestic market for Feta cheese accounted for by such imports from non-EC sources rose from 36.7 percent in 1977 to 49.7 percent in 1979. (Report at A-12, table 1)

B. Effect of imports on United States prices

4. Prices received by importers for Feta cheese made from sheep's or goat's milk and imported from the EC were consistently and significantly higher during 1977-79 than prices received by U.S. producers for comparable domestic products. The average price received by domestic producers for Feta cheese made from cow's milk increased from 90 cents per pound during the first 3 quarters of 1977 to $1.17 per pound in the fourth quarter of 1979. In comparison, the average price of Feta cheese made from goat's or sheep's milk and imported from the EC during the 1977-79 period ranged from a peak of $2.09 per pound in the first quarter of 1977 to a low of $1.78 per pound in the first quarter of 1978. (Report at A-12 through A-14)

5. The average price of Feta cheese made from goat's or sheep's milk and imported from non-EC countries ranged from $1.37 per pound in the first quarter of 1978 to $1.48 per pound in the first and fourth quarters of 1979. The Feta cheese produced in the U.S., is the lowest priced Feta cheese on the U.S. market. (Report at A-12)

C. Impact on the affected industry

6. U.S. production of Feta cheese made from cow's milk rose from 5.2 million pounds in 1977 to 5.6 million pounds in 1978, and then declined to 5.0 million pounds in 1979. (Report at A-8)

7. The share of the U.S. market for Feta cheese accounted for by domestic producers declined from 56.5 percent in 1977 to 44.8 percent in 1979. (Report at A-12)

8. As reported in response to the Commission's questionnaires, U.S. capacity to produce Feta cheese made from cow's milk increased by about 50 percent during 1977-79. Because production of domestic firms declined somewhat from 1977 to 1979, the rate of utilization of capacity to produce Feta cheese made from cow's milk fell during 1977-79. No measurable capacity exists for production of Fiore Sardo, Pecorino, and Feta cheeses made from goat's or sheep's milk. (Report at A-9)

9. Domestic shipments of U.S.-produced Feta cheese made from cow's milk, as reported to the Commission by producers, decreased from 3.9 million pounds, valued at $4.0 million, in 1977 to 3.3 million pounds, valued at $3.9 million, in 1979. (Report at A-9)

10. There are no known exports of domestically produced Feta cheese made from cow's milk. (Report at A-9)

11. U.S. producers' yearend inventories of cow's milk Feta cheese showed no consistent pattern of buildup or decline during 1977-79. Such inventories averaged less than 5 percent of annual production. (Report at A-9)

12. Employment in the United States in the production of Feta cheese from cow's milk did not change significantly during 1977-79; about 50 workers were so employed. Many of the workers were apparently not producing Feta cheese on a full-time basis. The average hourly wage paid to such workers rose from $4.12 in 1977 to $5.00 in 1979. (Report at A-10)

13. Aggregate net sales of Feta cheese by domestic producers supplying information on their profit-and-loss experience increased by 12 percent from

1977 to 1979. However, aggregate net operating profit and the ratio of net operating profit to net sales declined during this 3-year period. Net operating profit declined because the sales prices received by domestic producers, although rising during 1977-79, did not keep pace with increasing costs of production. (Report at A-10 and A-11)

14. The Commission's staff contacted the two firms listed by domestic producers as customers to which they had lost sales but was unable to confirm any instances of lost sales. (Report at A-14)

15. Most of the goat and sheep population of the EC is believed to be used for the production of meat rather than milk and the milking of sheep and goats is labor intensive. (Report at A-8)

16. Most domestic producers did not respond to the Commission's request for information pertaining to the actual and potential negative effects, if any, of subsidized imports from the EC of Fiore Sardo, Pecorino, and Feta cheeses on the producers' growth, investment, cash flow, and ability to raise capital.

Conclusions of law

A. There is no domestic industry against which to measure imports of Pecorino and Fiore Sardo cheeses, and there is no evidence of any attempt to establish such an industry.

B. The appropriate domestic industry against which the impact of subsidized imports from the EC of Feta cheese made from goat's milk or sheep's milk should be measured consists of those domestic facilities devoted to the production of Feta cheese made from cow's milk.

C. The domestic industry is not materially injured or threatened with material injury, and the establishment of an industry is not materially retarded, by reason of subsidized imports from the EC of Feta cheese made from goat's or sheep's milk.

STATEMENT OF REASONS FOR THE NEGATIVE DETERMINATION OF COMMISSIONERS CATHERINE BEDELL AND GEORGE M. MOORE

On the basis of the record developed in these investigations, we determine, pursuant to section 104(a)(2) of the Trade Agreements Act of 1979, that an industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports of certain Fiore Sardo and Pecorino cheeses made from sheep's milk (provided for in items 117.65, 117.67, or 117.70 of the Tariff Schedules of the United States) and certain Feta cheese made from goat's or sheep's milk (provided for in items 117.70, 117.75, or 117.88 of the Tariff Schedules of the United States) from the nine member States of the European Communities (EC), either individually or collectively, with respect to which the Department of Commerce has found that a subsidy is being provided by the EC, and which are subject to outstanding countervailing duty orders, but for which the imposition and collection of countervailing duties have been waived.

The subsidy

On February 5, 1980, the Commission received from the Department of Commerce the most current information available regarding subsidies bestowed on exports to the United States of dairy products produced in the EC. Commerce reported that all benefits were in the form of export restitution payments made to EC exporters. The subsidies on Fiore Sardo and Pecorino cheeses ranged from 59.9 cents per pound for exports from Italy to 95.1 cents per pound for exports from West Germany. The subsidies on Feta cheese varied from 16.6 cents per pound for exports from Italy to 36.8 cents per pound for exports from West Germany. 1/

1/ See Commission report in investigations Nos. 701-TA-52-60 (Final) (hereafter "Report"), at p. A-5.

The domestic industry

In these investigations we have concluded that the appropriate domestic industry against which the impact of the subsidized imports from the EC should be measured consists of the facilities in the United States producing Feta cheese made from cow's milk. Six firms are known to produce such cheese in the United States; most of these producers also make other varieties of cheese. Some of the producers reported to the Commission that they have been making Feta for only a few years, and undertook such production as a means of diversifying their operations and providing a continuing market for the local production of milk. 1/

Our finding concerning the composition of the appropriate domestic industry is based on section 771(4) of the Tariff Act of 1930 (19 U.S.C. 1677(4)). Section 771(4)(A) defines the term "industry" to mean the domestic producers of a "like product," which is in turn defined in section 771(10) as a "product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Section 771(4) further provides:

> (D) Product lines.--The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided.

The Fiore Sardo and Pecorino cheeses subject to the waived countervailing duty order relating to subsidized imports from the EC are made exclusively from sheep's milk. Virtually all sources contacted during the Commission's

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1/ Report at p. A-8.

investigations agreed that cheeses like or similar in characteristics and uses to Fiore Sardo and Pecorino are not produced in the United States and that such imported cheeses afford little, if any, competition to domestic cheeses made from cow's milk.

Although Feta cheese can be made from goat's, sheep's, or cow's milk, or combinations thereof, only that not containing cow's milk is subject to the waived countervailing duty order relating to subsidized imports from the EC. No firms in the United States are known to produce Feta cheese made from goat's or sheep's milk. However, six firms are known to produce Feta cheese from cow's milk. Because Feta cheese is generally cured in brine, neither the type of milk used to make the cheese nor the country of origin of the cheese is easily identified. Thus, pursuant to section 771(4)(D), we have assessed the impact of the subsidized imports of certain Fiore Sardo and Pecorino cheeses made from sheep's milk and certain Feta cheese made from goat's or sheep's milk against the narrowest range of domestic products which included like products, viz, Feta cheese made from cow's milk.

The question of material injury

With respect to the question of material injury to the domestic industry or the likelihood thereof, the Commission is directed by section 771(7)(B) of the Tariff Act of 1930 to consider, among other factors, the volume of imports of the merchandise subject to the investigation, the effects of such imports on domestic prices of like products, and the impact of such imports on the affected U.S. industry.

The volume of subsidized imports.--As reported in response to the Commission's questionnaires, U.S. imports of Pecorino cheese from the EC

(supplied entirely by Italy) rose from 6.2 million pounds in 1977 to 6.7 million pounds in 1978, and then declined slightly to 6.6 million pounds in 1979. Imports of Feta cheese made from goat's or sheep's milk from the EC (again supplied entirely by Italy) averaged about 0.5 million pounds annually during 1977-79. No imports of Fiore Sardo cheese from the EC were reported. 1/

Although imports from the EC of Feta cheese made from goat's or sheep's milk showed no discernible trend during recent years, imports of such cheese from non-EC countries (chiefly in Eastern Europe) rose steadily from 3.4 million pounds in 1977 to 5.5 million pounds in 1979. The loss of market share by domestic producers of cow's milk Feta cheese (it declined from 56.5 percent in 1977 to 44.8 percent in 1979) resulted from increased imports of goat's or sheep's milk Feta cheese from non-EC countries, not from imports of such cheese from the EC. The share of the U.S. market for Feta cheese supplied by imports from non-EC sources rose from 36.7 percent in 1977 to 49.7 percent in 1979, but the share supplied by members of the EC declined from 6.4 percent to 5.1 percent during the 3-year period. 3/

Price effects of subsidized imports.--The Commission's investigations revealed that there has been no significant price undercutting of like products produced in the United States by the imported subsidized merchandise and no pattern of price suppression or depression by reason of such imports. On the contrary, prices received by importers for Feta cheese made from goat's or sheep's milk and imported from the EC were consistently and substantially higher during 1977-79 than prices received by U.S. producers for domestically produced Feta cheese.

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1/ Report at pp. A-5 and A-10, table 1.
2/ Report at pp. A-11 and A-12.
3/ Report at p. A-12, table 1.

The average price received by domestic producers increased from a low of 90 cents per pound during the first three quarters of 1977 to a high of $1.17 per pound in the fourth quarter of 1979. In comparison, the average price received for Feta cheese made from goat's or sheep's milk and imported from the EC ranged from $1.78 to $2.09 per pound during 1977-79; at no time during this 3-year period did such imported Feta cheese undersell the domestically produced product. The average price of Feta cheese made from goat's or sheep's milk and imported from non-EC countries was between the price of such cheese imported from the EC and the price of domestically produced Feta. 1/

Although domestically produced Feta cheese was the lowest priced Feta cheese available to U.S. consumers during 1977-79, the domestic product lost market share to the higher priced Feta cheese made from goat's or sheep's milk and imported from non-EC countries. Therefore, in our opinion, Feta cheese made from goat's or sheep's milk and imported from the EC--which was the highest priced Feta cheese available to U.S. consumers--was not a significant factor in the loss of market share by domestic producers.

Impact of subsidized imports on the affected industry.--Section 771(7)(C)(iii) of the Tariff Act of 1930, as amended, instructs the Commission to examine, with respect to the impact of the subsidized imports on the domestic industry, all relevant economic factors including, but not limited to, actual and potential decline in output, sales, market share, profits, productivity, return on investments, utilization of capacity, factors affecting domestic prices, and actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment. The Commission obtained information from all known domestic

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1/ Report at pp. A-12 through A-14.

producers of Feta cheese and was thus able to get an accurate picture of the economic health of the industry. On the basis of our consideration of the above economic factors we find that the subsidized imports were not a significant factor affecting the domestic industry.

As reported in response to the Commission's questionnaires, U.S. production of Feta cheese rose from 5.2 million pounds in 1977 to 5.6 million pounds in 1978, and then declined to 5.0 million pounds in 1979. 1/ Domestic producers that furnished usable data on both production and capacity reported that their practical capacity to produce Feta cheese rose by 50 percent from 1977 to 1979; because production by these producers remained fairly stable or declined somewhat, however, capacity utilization fell sharply during this 3-year period. 2/

Shipments of Feta cheese reported by domestic producers fell from 3.9 million pounds, valued at $4.0 million, in 1977 to 3.3 million pounds, valued at $3.9 million, in 1979. There are no known U.S. exports of such Feta cheese. 3/ Yearend inventories of Feta cheese held by U.S. producers averaged less than 5 percent of annual production during 1977-79, and showed no consistent pattern of buildup or decline. 4/

Employment in the United States in Feta cheese production did not change significantly during 1977-79. An average of about 50 workers were employed during this 3-year period; many of these workers were apparently not producing Feta cheese on a full-time basis. The average hourly wage paid to such workers rose from $4.12 in 1977 to $5.00 in 1979. 5/

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1/ Report at p. A-8.
2/ Report at p. A-9.
3/ Ibid.
4/ Ibid.
5/ Report at p. A-10.

Although the Commission's staff contacted all firms named by domestic producers as customers to which they had lost sales because of subsidized imports from the EC of Feta cheese made from sheep's or goat's milk, it was unable to confirm any of the alleged instances of lost sales. 1/

Aggregate net sales of Feta cheese by producers reporting data on profit-and-loss experience increased by 12 percent from 1977 to 1979. Aggregate net operating profit decreased sharply during this period, however, because the average sales price, although rising, did not keep pace with the increasing costs of production. 2/

In light of the facts that the Commission found no evidence of sales lost to subsidized EC imports, that prices of such imports were consistently higher than prices of comparable domestic products, and that imports from the EC accounted for only a relatively small and stable percentage of domestic consumption, the decline in profit cannot be attributed to the subsidized imports. Rather, decreased profit appears to be related to rising costs of production occasioned chiefly by increased milk costs and to competitive pressures in the domestic market from increased imports of Feta cheese from non-EC countries.

Most domestic producers did not respond to the Commission's request for information pertaining to actual and potential negative effects, if any, of subsidized imports from the EC of Fiore Sardo and Pecorino cheeses made from sheep's milk and Feta cheese made from sheep's or goat's milk on their growth, investment, and ability to raise capital. Those producers that did respond

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1/ Report at p. A-14.
2/ Report at pp. A-10 and A-11.

stated that imported Feta, primarily from Eastern bloc countries, is competitive in price with domestically produced Feta, and referred to the pressures on domestic producers resulting from the combination of imports and increased milk costs.

Conclusion

We therefore conclude that an industry in the United States is neither materially injured nor threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports of certain Fiore Sardo, Pecorino, and Feta cheeses from the EC which the Department of Commerce has found are being subsidized.

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## INFORMATION OBTAINED IN THE INVESTIGATIONS

### Introduction

Section 104(a) of the Trade Agreements Act of 1979 requires the United States International Trade Commission to conduct countervailing duty investigations in cases where the Commission has received the most current net subsidy information pertaining to any countervailing duty order in effect on January 1, 1980, which had been waived pursuant to section 303(d) of the Tariff Act of 1930, and which applies to merchandise other than quota cheese as defined in section 701(c)(1) of the Trade Agreements Act of 1979. On January 7, 1980, the Commission received notice from the U.S. Department of Commerce, the administering authority under the provisions of the Trade Agreements Act of 1979, that a countervailing duty case on dairy products (other than quota cheeses) from member States of the European Communities (EC) was being referred to the Commission for an injury determination. 1/ The Commission was further advised that collection of duties on such items had been waived pursuant to the Trade Act of 1974.

On February 5, 1980, the Commission received from the Department of Commerce the most current net subsidy information available with respect to the subsidies bestowed on the aforementioned products from the EC. 2/ Accordingly, the Commission instituted the following nine investigations to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of certain Fiore Sardo and Pecorino cheeses made from sheep's milk (provided for in item Nos. 117.65, 117.67, or 117.70 of the Tariff Schedules of the United States (TSUS)), and certain Feta cheeses made from goat's or sheep's milk (provided for in TSUS items 117.70, 117.75, or 117.88), all the foregoing cheeses imported from the EC and subject to the countervailing duty order: 701-TA-52 (Belgium); 701-TA-53 (Denmark); 701-TA-54 (the Federal Republic of Germany); 701-TA-55 (France); 701-TA-56 (Ireland); 701-TA-57 (Italy); 701-TA-58 (Luxembourg); 701-TA-59 (the Netherlands); and 701-TA-60 (the United Kingdom). 3/

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1/ A copy of the letter from Commerce is presented in app. A. Member countries of the EC are Belgium, Denmark, the Federal Republic of Germany, France, Ireland, Italy, Luxembourg, the Netherlands, and the United Kingdom.

2/ A copy of the letter from Commerce presenting the most current net subsidy information on nonquota cheeses from the EC is presented in app. B. Also included (in a separate letter from Commerce) was information regarding the most current net subsidy provided on certain nonquota cheese from Norway. The Commission instituted, but subsequently terminated (pursuant to its authority under sec. 704(a) of the Tariff Act of 1930), an investigation on such nonquota cheese from Norway (701-TA-61 (Final)). That investigation was terminated on Mar. 19, 1980, on the basis of a request for withdrawal of its petition by the National Cheese Institute, Inc., the petitioner in the investigation.

3/ A copy of the Commission's Notice of Investigations and Hearing, (which also included certain nonquota cheese from Norway) is shown in app. C. A copy of the Commission's notice terminating the investigation on nonquota cheese from Norway is also shown in app. C.

Notice of the Commission's investigations and of a public hearing to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's New York City office, and by publishing the notice in the Federal Register of March 12, 1980 (45 F.R. 16050). 1/ The public hearing was held in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C., on Wednesday, May 21, 1980. No witnesses appeared at the hearing; the only information presented was response from the staff to questions from the Commission.

Only three statements or briefs were submitted in connection with the investigations. None of the parties submitting such statements or briefs, including the petitioners, took exception with the information in the staff report, dated April 28, 1980, containing the preliminary findings of fact obtained in the investigations.

The transition rules for countervailing duty investigations provide, under section 104 of the Trade Agreements Act of 1979, that the Commission complete its investigations within 180 days after the date (Feb. 5, 1980, in this instance) on which it receives the most current net subsidy information from the administering authority. The statutory deadline for the completion of these investigations, therefore, is August 4, 1980. However, the Commission intends to expedite its handling of these cases and to report its findings to the Department of Commerce prior to this deadline.

## Origin of the Investigations

In July 1968 the National Milk Producers Federation filed a petition with the Commissioner of Customs, U.S. Department of the Treasury, alleging that bounties and grants in the form of export subsidies were being paid and bestowed by all foreign countries on dairy products imported into the United States. The Federation requested that the Treasury Department make an immediate investigation under section 303, Tariff Act of 1930, as amended, to determine whether a countervailing duty order should be issued in accordance with the provisions of that act.

Since 1968, other organizations have also petitioned the Treasury Department complaining that U.S. imports of dairy products benefited from subsidies. Of these petitions, however, only that of the Milk Producers Federation remains outstanding. Most of the imports of subsidized dairy products which were the subject of these petitions have been made subject to quotas under the provisions of section 22 of the Agricultural Adjustment Act, as amended, since such imports were found and determined to have interfered with the U.S. Department of Agriculture's price-support program for milk. By far, the largest part of such imports of dairy products consisted of cheeses

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1/ The Commission's notice of termination of the investigation with respect to the nonquota cheese from Norway was published in the Federal Register of Mar. 27, 1980 (45 F.R. 20251).

## INFORMATION OBTAINED IN THE INVESTIGATIONS

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made from, or containing, cow's milk. As of January 1, 1980, virtually all such imports (except soft-ripened cow's milk cheeses) were also made subject to quotas via implementation of sections 701 and 702, title VII, of the Trade Agreements Act of 1979. However, these quotas did not include cheese made exclusively from goat's or sheep's milk. Hence, these cheeses, unlike those included under the quotas, if imported into the United States with the benefit of subsidies, are in violation of the U.S. countervailing duty law. 1/ Therefore, following the receipt of the most current net subsidy information available with respect to certain Fiore Sardo, Pecorino, and Feta cheeses made from goat's or sheep's milk and imported from the EC, the Commission instituted these investigations.

## The Products

### Description and uses

The Fiore Sardo and Pecorino cheeses subject to these investigations are made exclusively from sheep's milk. 2/ Although Feta cheese is made from goat's, sheep's, and cow's milk, or combinations thereof, only that not containing cow's milk is included in the investigations. 3/ Because Feta cheese generally is cured in brine, neither the type of milk used to make the cheese nor the country of origin of the cheese is easily identified by most consumers. If Feta cheese is made from or contains cow's milk, it is subject to quota under section 22 of the Agricultural Adjustment Act, as amended, and therefore, not included herein.

Fiore Sardo is used as a table cheese when unaged, and for grating when aged. Pecorino is not a specific type of sheep's milk cheese, but rather a term properly descriptive of any cheese made from sheep's milk. In the United States, cheese made from sheep's milk, all of which is imported, is usually considered to be a specialty-type cheese and is marketed chiefly in cheese shops. The bulk of the imports are grated after entry and consumed principally in well-seasoned gourmet foods. They generally sell at prices about double those of the nearest comparable varieties of cheese made from cow's milk.

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1/ The cheeses subject to the quotas may be imported with the benefit of subsidies so long as the duty-paid wholesale market price of the cheese is not less than the domestic wholesale market price of that cheese, or similar cheeses, produced in the United States.

2/ These cheeses are not grated or powdered, and have a fat content, by weight, not exceeding 40 percent, and a water content, by weight, of the nonfatty matter not exceeding 47 percent.

3/ The Feta cheese included herein is made from goat's or sheep's milk, is not grated or powdered, has a fat content, by weight, not exceeding 40 percent, a water content, by weight, of the nonfatty matter exceeding 62 percent but not exceeding 72 percent, and has a fat content, by weight, of the dry matter of 39 percent or more. It must also be packed in containers holding brine.

Feta is a soft, white, high-moisture cheese consumed mainly as an ingredient in Greek-type salads. It is generally considered to be a specialty-type cheese and is marketed, often to ethnic groups, mostly through cheese variety shops. Data received in response to the Commission's questionnaires suggest that consumers are willing to pay substantially higher prices for imported Feta cheese made from goat's or sheep's milk, regardless of origin, than for domestically produced Feta cheese made from cow's milk.

U.S. tariff treatment

The provisions of the TSUS applicable to imports of the cheeses included in these investigations are shown in the following tabulation:

| TSUS item no. | Brief description | Rates of duty | |
|---|---|---|---|
| | | Col. 1 | Col. 2 |
| | Other cheeses, and substitutes for cheese: | | |
| | Cheeses made from sheep's milk: | | |
| A 117.65 | In original loaves and suitable for grating (Fiore Sardo and Pecorino) | 9% ad val. | 35% ad val. |
| A 117.67 | In original loaves and not suitable for grating (Fiore Sardo, Pecorino, and Feta) | 12% ad val. | 35% ad val. |
| 117.70 | Other (Fiore Sardo, Pecorino, and Feta) | 15% ad val. | 35% ad val. |
| | Other (Feta cheese made from goat's milk): | | |
| 117.75 | Valued not over 25 cents per pound | 5¢ per lb. | 8.75¢ per lb. |
| 117.88 | 1/ Valued over 25 cents per pound | 10% ad val. | 35% ad val. |

1/ Prior to 1980 such cheese entered under item 117.85.

Note.--The designation "A" signifies that all beneficiary developing countries are eligible for preferential treatment under the Generalized System of Preferences (GSP) with respect to all articles provided for in the designated TSUS item; imports from the EC are not so eligible.

The column 1 rates of duty shown in the above tabulation apply to imports from all countries or areas except those from certain Communist countries, imports from which are subject to column 2 rates of duty. Inasmuch as imports of Feta cheese made from goat's milk are believed to have been valued over 25 cents per pound for many years, no entries of these cheeses are believed to have been made under item 117.75. Hence, no ad valorem equivalents have been calculated for the specific rates of duty applicable to that item.

Unlike imports of virtually all cheeses made from or containing cow's milk, the cheeses included in these investigations are not subject to quotas under section 22 of the Agricultural Adjustment Act, as amended.

## The Nature and Extent of the Bounties or Grants

On February 5, 1980, the Commission received from the Department of Commerce the most current information available regarding subsidies bestowed on exports to the United States of dairy products produced in the EC. Commerce reported that, "All benefits are in the form of export restitution payments made to EC exporters . . ." With the exception of the nonquota cheeses enumerated in the information received, 1/ Commerce reported that, ". . . there are no payments currently being made on exports of all other dairy products to the United States."

The subsidies bestowed by the EC as of January 1, 1980, on the nonquota cheeses exported to the United States, are shown below (in cents per pound):

| Type of cheese | Country | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | West Germany | Belgium and Luxembourg | The Netherlands | Denmark | France | Italy | The United Kingdom | Ireland |
| Fiore Sardo and Pecorino | 95.1 | 76.1 | 77.4 | 73.0 | 66.6 | 59.9 | 69.7 | 71.9 |
| Feta, if made from goat's or sheep's milk | 36.8 | 26.3 | 26.7 | 24.1 | 22.8 | 16.6 | 22.5 | 23.7 |

## The U.S. Market and Channels of Distribution

Total U.S. imports of cheese, virtually all of which is made from cow's milk, have averaged about 235 million pounds annually in recent years; domestic production, including cottage cheese, has averaged about 5 billion pounds. Imports have accounted for about 5 percent of consumption.

According to data received in response to the Commission's questionnaires, U.S. imports of the Feta cheese subject to these investigations (all from Italy) averaged about 0.5 million pounds annually in 1977-79, although they declined irregularly. As shown in the table on the following page, total imports of all Feta cheese, including that not subject to these investigations, averaged about 5 million pounds. No imports of Fiore Sardo were

1/ On Feb. 28, 1980, the Commission was advised by Commerce that the cheese category listed in the information received on Feb. 5 as "2...(a) Buttercase, etc., if soft-ripened" was, in fact, a quota cheese and should not have been included therein. As requested by Commerce, the Commission deleted that category of cheese from the investigations.

Table 1.--Pecorino cheese and Feta cheeses made from goat's or sheep's milk and made from cow's milk: U.S. imports for consumption, by specified sources, 1977-79

| Source | Type of cheese | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | 1977 | | | 1978 | | | 1979 | | |
| | Pecorino | Feta made from-- | | Pecorino | Feta made from-- | | Pecorino | Feta made from-- | |
| | | Goat's or sheep's milk | Cow's milk | | Goat's or sheep's milk | Cow's milk | | Goat's or sheep's milk | Cow's milk |
| | Quantity (pounds) | | | | | | | | |
| European Community: | | | | | | | | | |
| Italy | 6,152,063 | 591,308 | * * * | 6,678,014 | 377,994 | * * * | 6,557,609 | 572,657 | * * * |
| Denmark | 0 | 0 | * * * | 0 | 0 | * * * | 0 | 0 | * * * |
| Total EC | 6,152,063 | 591,308 | 37,960 | 6,678,014 | 377,994 | 35,535 | 6,557,609 | 572,657 | 41,014 |
| All other | 2,287,812 | 3,399,407 | 0 | 2,068,760 | 4,569,354 | 0 | 1,466,767 | 5,537,537 | 0 |
| Total | 8,439,875 | 3,990,715 | 37,960 | 8,746,774 | 4,947,348 | 35,535 | 8,024,376 | 6,110,194 | 41,014 |
| | Value (dollars) | | | | | | | | |
| European Community: | | | | | | | | | |
| Italy | 12,723,586 | 1,023,190 | * * * | 12,199,738 | 571,928 | * * * | 12,090,059 | 760,585 | * * * |
| Denmark | - | - | * * * | - | - | * * * | - | - | * * * |
| Total EC | 12,723,586 | 1,023,190 | 57,327 | 12,199,738 | 571,928 | 57,122 | 12,090,059 | 760,585 | 76,689 |
| All other | 3,110,914 | 3,931,229 | - | 2,789,612 | 5,290,673 | - | 2,152,909 | 7,221,543 | - |
| Total | 15,834,500 | 4,954,419 | 57,327 | 14,989,350 | 5,862,601 | 57,122 | 14,242,968 | 7,982,128 | 76,689 |
| | Unit value (per pound) | | | | | | | | |
| European Community: | | | | | | | | | |
| Italy | $2.07 | $1.73 | * * * | $1.83 | $1.51 | * * * | $1.84 | $1.33 | * * * |
| Denmark | - | - | * * * | - | - | * * * | - | - | * * * |
| Average EC | 2.07 | 1.73 | $1.51 | 1.83 | 1.51 | $1.61 | 1.84 | 1.33 | $1.87 |
| All other | 1.36 | 1.16 | - | 1.35 | 1.16 | - | 1.47 | 1.30 | - |
| Average | 1.88 | 1.24 | 1.51 | 1.71 | 1.18 | 1.61 | 1.77 | 1.31 | 1.87 |

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

reported, and imports of Pecorino from the EC (all from Italy) averaged about 6.5 million pounds.

The Fiore Sardo, Pecorino, and Feta cheeses subject to these investigations, being imported specialty-type cheeses, usually are marketed through cheese variety shops, often to ethnic groups. Marketings of such imports have averaged about 7 million pounds annually in recent years, compared with total annual U.S. sales of all cheeses of about 5 billion pounds.

Virtually all sources contacted during the investigations agreed that cheeses similar to Fiore Sardo and Pecorino are not produced in the United States and that imports of these cheeses afford little, if any, competition to domestic cheeses. 1/ Most domestic producers of Feta cheese contacted believed that imports from the EC of Feta cheeses of the types subject to these investigations (i.e., those made from goat's or sheep's milk), if any, were small. The producers expressed little concern about such imports. (In the United States, Feta cheese is made exclusively from cow's milk.) Indeed, most producers were more concerned with Feta cheese imported from Eastern Europe and Israel, whether made from goat's, sheep's, or cow's milk, or combinations thereof, than with Feta cheeses made from goat's or sheep's milk and imported from the EC. 2/

The domestic producers of Feta cheese believed that the cheeses from Eastern Europe and Israel (cheeses not subject to these investigations) are competitive with the domestic cheese. These imports, they alleged, frequently are marketed at prices which substantially undercut prices of the domestic cheese; as noted later in this report, this contention was not supported by the data submitted in response to the questionnaires. Producers alleged that the critical financial situation confronting them with regard to these imports is not the result of inefficient production practices, but rather their inability to market the domestic cheese at the low market prices of the allegedly subsidized imports. They claimed that, without question, these imports are interfering with the establishment of a Feta cheese industry in the United States.

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1/ According to data received in response to the questionnaires, Fiore Sardo was not imported during 1977-79; this information was corroborated in briefs submitted during the investigations. Hence, further discussion of Fiore Sardo in this report is limited.

2/ On Feb. 1, 1980, the Vernon Co-operative Creamery Association petitioned the Department of Commerce for a countervailing duty investigation on imports of Feta cheese from Bulgaria, Hungary, Israel, Romania, and Yugoslavia. Commerce advised that the petition was subsequently withdrawn by the co-operative, but expected it to be redrafted to correct certain deficiencies and to be refiled at a later date. Subsequently, the co-operative was reportedly purchased by the Associated Milk Producers, Inc., the largest dairy co-operative in the United States, and has ceased making Feta Cheese.

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## The U.S. Industry

There is no U.S. industry producing Fiore Sardo or Pecorino cheeses, or Feta cheese made from goat's or sheep's milk. However, six U.S. firms (of about 1,000 plants producing cheese in the United States) are known to produce Feta cheese from cow's milk. By far, the largest of the Feta cheese producers is the International Cheese Co., Inc., Hinesburg, Vt. Most of the producers make other varieties of cheese in addition to Feta; most employ fewer than 50 persons. On average, about 35 percent of the workers are involved with Feta cheese. A number of the producers reported that they have been making Feta for only 5 or 6 years. They undertook production as a means of diversifying their operations and providing a continuing market for the local production of milk. They often characterize their operation as those of a young, small, and growing business.

## The Foreign Industry and its Capacity to Generate Exports

The goat and sheep population of the EC (mostly sheep) increased from about 53 million head in 1976 to 57 million head in 1979; it is estimated to total 58 million head in 1980. Although data are not available, most of the animals are believed to be used for the production of meat rather than milk. The milking of sheep and goats is relatively labor intensive compared with the milking of cows. Hence, any increased capacity of the EC to generate exports of cheese would probably occur in cheese made from cow's milk rather than in Fiore Sardo, Pecorino, and Feta cheeses made from goat's or sheep's milk.

## U.S. Importers

The group of about 60 importers who received and responded to the Commission's questionnaire accounted for about 70 percent of the total imports under the tariff categories of sheep's milk cheese included in these investigations. Most of the importers are located in New York City. They specialize in a variety of cheeses from the EC, including those made from goat's and sheep's milk. Many importers have been issued licenses by the Department of Agriculture to import cheeses under the section 22 quotas. Data from the questionnaire survey to importers are shown in table 1 on page A-6.

## Consideration of Material Injury to a U.S. Industry

### U.S. production

Fiore Sardo, Pecorino, and Feta cheeses made from goat's or sheep's milk are not produced in the United States. Feta cheese is produced domestically from cow's milk in the States of Vermont, Minnesota, Washington, Illinois, Michigan, and New York (one producer is in each State). In response to the Commission's questionnaires, the U.S. producers of Feta cheese reported that production rose from 5.2 million pounds in 1977 to 5.6 million pounds in 1978, and then fell to 5.0 million pounds in 1979.

## Capacity

Sheep are not known to be milked in the United States. Virtually all of the extremely limited quantity of goat's milk produced domestically is used for fluid consumption (drinking purposes). It would appear, therefore, that the domestic capacity to produce Fiore Sardo, Pecorino, and Feta cheeses made from goat's or sheep's milk is negligible. Because of the readily available U.S. supply of cow's milk, domestic capacity to make Feta cheese from cow's milk is large; however, limited consumer preference for this specialty cheese and its price may well restrict utilization of capacity to current, or only slowly increasing, levels.

Domestic producers that furnished usable data on both production and capacity reported that their practical capacity to produce Feta cheese from cow's milk rose from 4.6 million pounds in 1977 to 6.9 million pounds in 1979, or by 50 percent. 1/ Because production by these producers remained fairly consistent, or declined somewhat, capacity utilization fell from a high of 80 percent in 1977 to 48 percent in 1979. Should demand for cow's milk Feta cheese rise, it would appear that the U.S. industry would have little problem in meeting it.

## U.S. producers' shipments and exports

Shipments of Feta cheese made from cow's milk reported by domestic producers fell from 3.9 million pounds, valued at $4.0 million, in 1977 to 3.3 million pounds, valued at $3.9 million, in 1979. 2/ No respondents to the Commission's questionnaires reported exports of domestically produced Feta cheese made from cow's milk.

## Inventories

Because Feta is a soft, high-moisture cheese that is not conducive to storage, inventories beyond normal working levels generally are not maintained. Yearend inventories averaged less than 5 percent of annual production during 1977-79, and showed no consistent pattern of buildup or decline.

## U.S. imports

The volume of imports of the cheeses included in these investigations is very small when compared with the total U.S. market for cheese. As shown in the table on page A-6, imports of Feta cheeses from the EC and made from

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1/ * * * * * * *.

2/ Two domestic producers did not supply data on shipments. Production data were obtained from those firms, however; thus the figures shown in this report for production are larger than those for shipments.

goat's or sheep's milk were supplied entirely by Italy during 1977-79; such imports averaged about 0.5 million pounds annually and showed no discernible trend. However, Feta cheeses made from goat's or sheep's milk and imported from non-EC countries (chiefly in Eastern Europe) rose steadily from 3.4 million pounds in 1977 to 5.5 million pounds in 1979. Pecorino imported from the EC (Italy) rose slightly from 1977 to 1978, but remained at about 6.6 million pounds thereafter. Pecorino imported from non-EC countries has shown a steady decline over the past 3 years.

Employment

According to usable data from the producer's responses to the Commission's questionnaires, an average of 136 production and related workers were engaged during 1977-79 in the production of all products made by the firms involved with Feta cheese. About 50 workers were employed in the production of cow's milk Feta cheese; many of these workers were apparently not producing Feta cheese on a full-time basis. Employment in producing Feta cheese did not change significantly during the last 3 years. The average hourly wage paid to workers engaged in the production of Feta cheese rose from $4.12 in 1977 to $4.70 in 1978 and $5.00 in 1979.

Financial experience of U.S. producers

Profit-and-loss data were received from two domestic producers accounting for about *** percent of the total reported U.S. production of Feta cheese in 1979. The data submitted by these two firms are their best estimates, compiled by using various arbitrary allocation methods.

As shown in table 2, aggregate net sales of Feta cheese by the two producers increased by 12 percent from *** million in 1977 to *** million in 1979. Aggregate net operating profit decreased by 66 percent from *** in 1977 to *** in 1979. The ratio of net operating profit to net sales declined from *** percent in 1977 to *** percent in 1979.

Net operating profit declined during 1977-79 because the average sales price, although rising during the period, did not keep pace with the increasing costs of production. Cost of goods sold as a percentage of net sales rose from *** percent in 1977 to *** percent in 1979. General, administrative, and selling expenses, as a percentage of net sales, generally declined during the same period.

Table 2.--Selected financial data for U.S. producers of Feta cheese on their operations in producing such cheese, accounting years 1977-79

| Item | 1977 | 1978 | 1979 |
|---|---|---|---|
| Net sales----------1,000 dollars-- | * * * | * * * | * * * |
| Cost of goods sold----------do---- | * * * | * * * | * * * |
| Gross margin----------do---- | * * * | * * * | * * * |
| General, administrative and selling expenses--do---- | * * * | * * * | * * * |
| Net operating profit----------do---- | * * * | * * * | * * * |
| Ratio of net operating profit to net sales----------percent-- | * * * | * * * | * * * |
| Ratio of cost of goods sold to net sales------do---- | * * * | * * * | * * * |
| Ratio of general, administrative, and selling expenses to net sales----------percent-- | * * * | * * * | * * * |

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commisision.

## Consideration of the Causal Relationship Between Subsidized Imports and the Alleged Injury or Threat Thereof

### Market share

According to some trade sources, imports of Feta cheese, whether made from goat's, sheep's, or cow's milk, generally compete for the same market as domestically produced Feta made from cow's milk. The share of the U.S. market supplied by domestically produced Feta has declined continuously since 1977, as shown in the tabulation on the following page. The loss of market share by domestic Feta cheese resulted more from increased imports of goat's or sheep's milk Feta cheeses from non-EC countries than from imports of such cheese from the EC. Indeed, the amount of Feta cheeses made from goat's or sheep's milk and supplied by the EC remained around 5 percent of the total market for Feta cheese during 1977-79.

Imported Pecorino cheese supplies all of the small U.S. market for such cheeses. Virtually all sources contacted during the investigations agreed that Pecorino is not like, or similar to, any domestic cheeses.

| Item | 1977 | 1978 | 1979 |
|---|---|---|---|
| | Pounds | | |
| U.S.-produced Feta cheese | 5,235,618 | 5,571,242 | 4,993,302 |
| Imported Feta cheese: | | | |
| From the EC: | | | |
| Made from goat's or sheep's milk 1/ | 591,308 | 377,994 | 572,657 |
| Made from cow's milk | 37,960 | 35,535 | 41,014 |
| From other countries: | | | |
| Made from goat's or sheep's milk | 3,399,407 | 4,569,354 | 5,537,537 |
| Total | 4,028,675 | 4,982,883 | 6,151,208 |
| Grand total | 9,264,293 | 10,554,125 | 11,144,510 |
| | Percent of total U.S. market | | |
| U.S.-produced Feta cheese | 56.5 | 52.8 | 44.8 |
| Imported Feta cheese: | | | |
| From the EC: | | | |
| Made from goat's or sheep's milk 1/ | 6.4 | 3.6 | 5.1 |
| Made from cow's milk | .4 | .3 | .4 |
| From other countries: | | | |
| Made from goat's or sheep's milk | 36.7 | 43.3 | 49.7 |
| Total | 43.5 | 47.2 | 55.2 |
| Grand total | 100.0 | 100.0 | 100.0 |

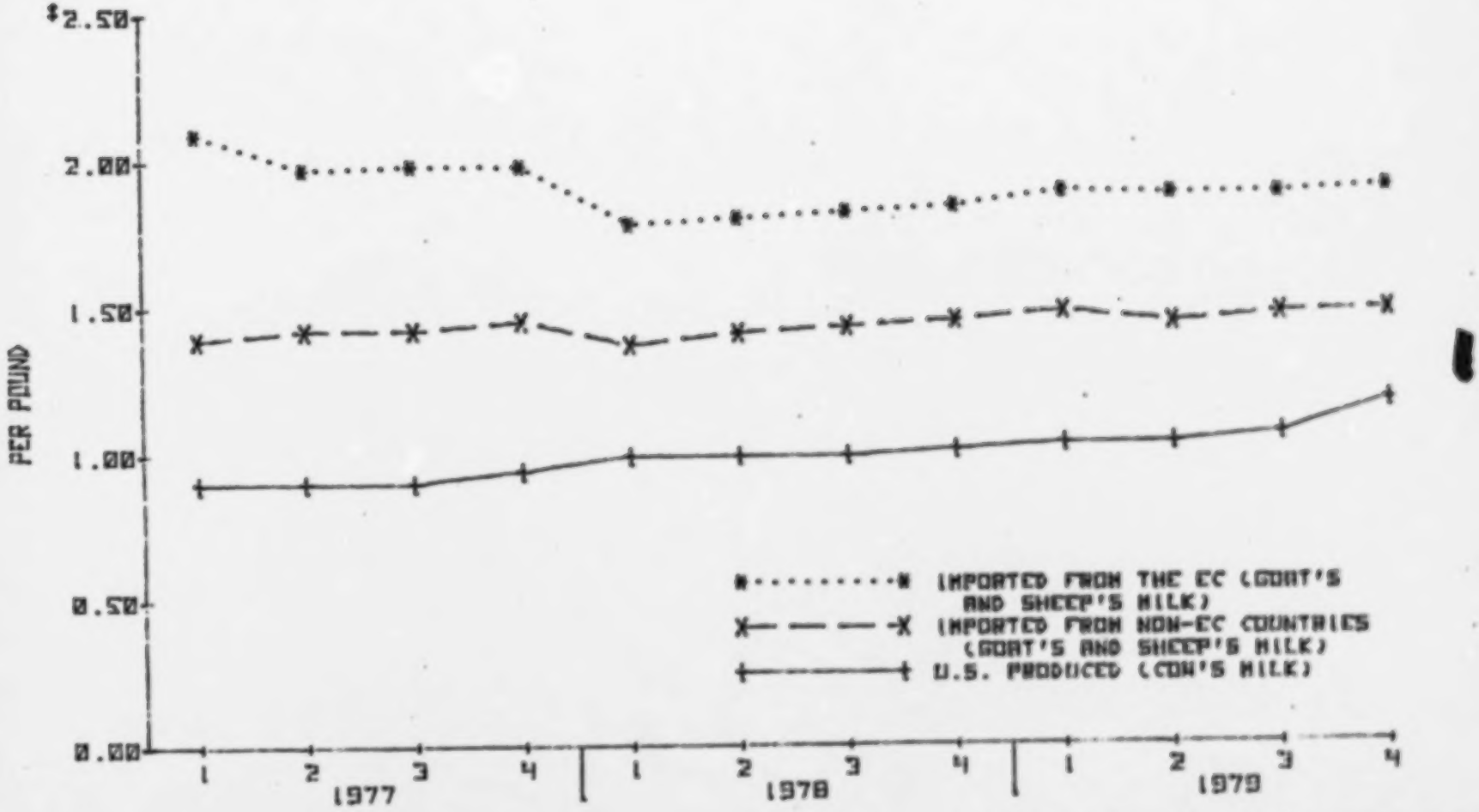
1/ This is the only cheese shown here that is subject to the investigations.

Price comparisons

The figure on the following page shows clearly that U.S.-produced Feta cheese made from cow's milk enjoyed a comparative price advantage during 1977-79 over imported Feta cheese made from goat's or sheep's milk, regardless of origin. The weighted average price for domestically produced cow's milk Feta cheese increased from a low of 90 cents per pound during the first 3 quarters of 1977 to a high of $1.17 per pound in the fourth quarter of 1979. Concurrently, the weighted average price of Feta cheese made from goat's or sheep's milk and imported from the EC ranged from $1.78 per pound in the first quarter of 1978 to $2.09 per pound in the first quarter of 1977. At no time in the last 3 years has Feta cheese imported from the EC undersold U.S.-produced Feta cheese made from cow's milk. Similarly, the weighted average price of Feta cheese made from goat's or sheep's milk and imported from non-EC countries did not undersell U.S.-produced Feta cheese made from cow's milk. The price of such cheese imported from non-EC sources ranged from $1.37 per pound in the first quarter of 1978 to $1.48 per pound in the first and fourth quarters of 1979.

Although domestically produced cow's milk Feta cheese was the lowest priced Feta cheese available to consumers during 1977-79, the domestic product lost market share to the higher priced Feta cheeses made from goat's or

Feta cheese: Average weighted selling prices per pound received by U.S. producers and importers, by quarters, 1977-79.




Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

sheep's milk and imported from non-EC countries. This suggests that Feta cheese made from cow's milk may be distinguishable to some consumers from Feta cheeses made from goat's or sheep's milk and that the two products might not clearly substitute for each other. Moreover, Feta cheese made from goat's or sheep's milk and imported from the EC, which is priced higher than non-EC imports, appears not to have been a significant factor in the loss of the U.S. market share to imports. The above indicates that the real competition in the U.S. market is between Feta cheeses made from goat's or sheep's milk and imported from the EC versus non-EC countries, rather than between domestic Feta cheese made from cow's milk and imported cheeses made from goat's or sheep's milk.

Loss of sales

In response to the Commission's questionnaires sent to all known domestic producers of Feta cheese made from cow's milk, only one firm reported losing sales of such cheese to Feta cheese made of sheep's or goat's milk and imported from the EC. This producer alleged losing a total of * * * pounds in sales in 1979 to * * * customers. * * * of the * * * customers reported to the Commission's staff that it had not handled imported Feta cheese for a number of years. This customer had, however, recently switched from the producer claiming the lost sale to another domestic supplier, reportedly because of price considerations. * * * also reported that it had not used imported Feta cheese.

## APPENDIX A

LETTER FROM THE DEPARTMENT OF COMMERCE TO THE COMMISSION CONCERNING DAIRY PRODUCTS FROM MEMBER STATES OF THE EC

RECEIVED
JAN 7 1980
OFFICE OF THE SECRETARY
U.S. INTL. TRADE COMMISSION

04 JAN 1980

II-620

Dear Mr. Mason:

In accordance with the requirements of the Trade Agreements Act of 1979, the following countervail and antidumping cases are being referred to the Commission for a determination of injury or reasonable indication thereof. With regard to countervail investigations, only those cases involving products from countries which signed the Code at Geneva are being referred.

I. Countervailing Duty Cases in which the collection of duties was waived pursuant to the Trade Act of 1974 (5 cases):

| Product | Country |
|---|---|
| Dairy Products (other than quota cheeses) | Member states of the European Communities |
| Canned Hams | Member states of the European Communities |
| Butter Cookies | Denmark |
| Fish | Canada |
| Leather Handbags | Brazil |

II. Countervailing Duty Cases in which final affirmative determinations were issued between July 26 and December 31, 1979 (2 cases):

| Product | Country |
|---|---|
| Tomato Products | Member states of the European Communities |
| Potato Starch | Member states of the European Communities |

III. Countervailing Duty final affirmative determination with regard to frozen beef from member states of the European Communities (1 case).

IV. Countervailing Duty investigations in which a preliminary affirmative determination (but no final determination) has been issued (1 case):

| Product | Country |
|---|---|
| Corn Starch | Member states of the European Communities |

| | |
|---|---|
| Valves | Italy |
| Rayon Staple Fiber | Austria |
| Valves | Japan |
| Scales | Japan |
| Malleable Pipe Fittings | Japan |
| Firearms | Brazil |
| Ferroalloys | Brazil |

V. Countervailing Duty Cases which have been initiated, but for which no preliminary or final determination has been issued (4 cases):

| Product | Country |
|---|---|
| Frozen Potato Products | Canada |
| Roses | Netherlands |
| Glass Lined Steel Reactor Pressure Vessels | France |
| Chains and Parts | Japan |

VI. Antidumping Cases for which there have been preliminary affirmative determinations, but no final determinations (3 cases):

| Product | Country |
|---|---|
| Portable Typewriters | Japan |
| Melamine | Austria |
| Melamine | Italy |

VII. Antidumping Cases which have been initiated, but for which no preliminary or final determinations have been issued (9 cases):

| Product | Country |
|---|---|
| Sodium Hydroxide | United Kingdom |
| Sodium Hydroxide | West Germany |
| Sodium Hydroxide | Italy |
| Sodium Hydroxide | France |
| Rail Passenger Cars | Italy |

| | |
|---|---|
| Rail Passenger Cars | Japan |
| Electric Motors | Japan |
| Microwave Ovens | Japan |
| Canned Clams | Canada |

If you have any questions regarding any of these cases, please feel free to contact me or members of my staff at 566-2123.

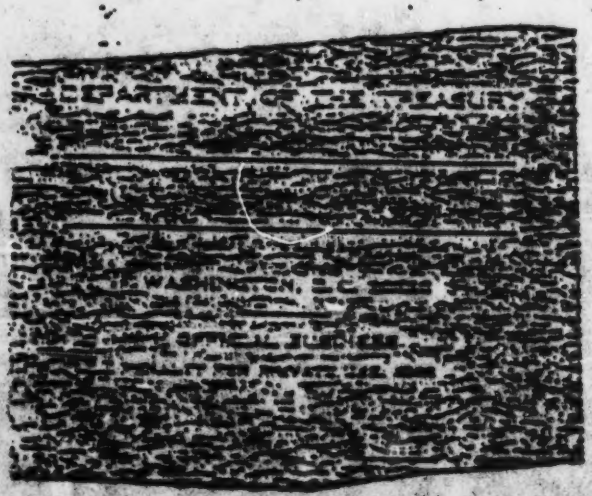
Regards,

Richard B. Self

Richard B. Self
Director, Office of Policy
Office of the Assistant Secretary
for Trade Administration

cc: Dave Binder

Mr. Kenneth R. Mason
Secretary to the Commission
U.S. International Trade Commission
Washington, D.C. 20436

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## APPENDIX B

LETTERS FROM THE DEPARTMENT OF COMMERCE PRESENTING THE MOST CURRENT AVAILABLE NET SUBSIDY INFORMATION ON NONQUOTA CHEESE FROM THE EC AND NORWAY

42

UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

01 FEB 1990

Mr. Kenneth Mason
Secretary to the Commission
U.S. International Trade Commission
Washington, D.C. 20436

RECEIVED
FEB 5 1990
OFFICE OF THE SECRETARY
U.S. INTL. TRADE COMMISSION

Dear Mr. Mason:

By this letter the Department of Commerce transmits to the Commission the most current information available regarding subsidies bestowed on dairy products, canned hams and shoulders, and frozen boneless beef produced in the European Community (EC). All benefits are in the form of export restitution payments made to EC exporters of the subject merchandise.

Subsidies paid to exporters of non-quota cheeses exported to the United States are shown in the Appendix to this letter. Furthermore, there are no payments currently being made on exports of all other dairy products to the United States.

The benefits received by exporters of canned hams and shoulders from the main producing countries exported to the United States are as follows: Denmark, $0.333 per pound for canned hams and $0.294 per pound for canned shoulders; the Netherlands, $0.382 per pound for canned hams and $0.335 per pound for canned shoulders.

In the case involving imports of frozen boneless beef from the EC, there are presently no subsidies paid to exporters of this merchandise to the United States.

I trust this information will be sufficient for your purposes. If you have any questions, please do not hesitate to contact me or my staff at 566-8585.

Sincerely,

Richard B. Self

Richard B. Self
Director
Office of Policy

Enclosure

DOCKET
FEB
FEB 6 '90
Office of the
Secretary
Int'l Trade Commission

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## APPENDIX

### EC NON-QUOTA CHEESE EXPORT SUBSIDIES TO U.S.
### (in cents/pound, as of January 1, 1980)

| DESCRIPTION OF CHEESE | COUNTRY | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Germany | Belgium Luxembourg | Netherlands | Denmark | France | Italy | U.K. | Irela |
| Other, not powdered or grated | | | | | | | | |
| -Fat content not over 40% | | | | | | | | |
| (1)Water in non-fatty matter not over 47% | | | | | | | | |
| -- Fiore, Sardo, Pecorino | 95.1 | 76.1 | 77.4 | 73.0 | 66.6 | 59.9 | 69.7 | 71.9 |
| (2)Water in non-fatty matter of 47.1% - 72% | | | | | | | | |
| -- Other, fat in dry matter of 39% or more | | | | | | | | |
| (a) Butterkase, etc, if soft ripened | 36.3 | 25.8 | 26.1 | 23.6 | 22.3 | 16.1 | 22.0 | 23.2 |
| (b) Feta, if from goat or cheese milk | 36.8 | 26.3 | 26.7 | 24.1 | 22.8 | 16.6 | 22.5 | 23.7 |

44

UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

FEB 01 1980
RECEIVED
FEB 5 1980
OFFICE OF THE SECRETARY
U.S. INTL. TRADE COMMISSION

Mr. Kenneth Mason
Secretary to the Commission
U.S. International Trade Commission
Washington, D.C. 20436

Dear Mr. Mason:

By this letter the Department of Commerce transmits to the Commission the most current information available regarding subsidies bestowed upon butter cookies produced in Denmark, leather handbags from Brazil, groundfish from Canada, tomato products from the European Community, dextrines and soluble and chemically treated starches derived from potato starch from the European Community, and non-quota cheese from Norway.

The only benefits realized by producers of butter cookies are conferred by the European Communities in the form of export restitution payments made on the butter, egg, meal and sugar content of the cookies. For the month of December 1979, these payments were ECU 65.85 per 100 kilograms of cookies. This is approximately $0.427 per pound.

In the case of leather handbags from Brazil, benefits are conferred through the provision of loans at preferential rates and reductions in income tax on export earnings. The information received by this office indicates a bounty of one percent ad valorem of the import price for Brazilian handbags.

In the cases involving groundfish imported from Canada, benefits were granted under the following programs: (1) Federal Vessel Assistance Program; (2) grants by the Department of Regional Economic Expansion for water supply systems, wharf facilities, and fish processing plants; (3) Fishermen's Loan Act; (4) ship construction assistance; and (5) loans provided by the Nova Scotia and New Brunswick Fishermen's Loan Board. The benefits paid are valued at 1.08 percent ad valorem of the f.o.b. import price for fish harvested in the Atlantic region of Canada; benefits for fish harvested in the Pacific region of Canada have been determined to be de minimis in value.

DOCKET NUMBER
#628
Office of the Secretary
U.S. International Trade Commission

In the case regarding tomato products imported from the European Community, benefits were found in the form of processing subsidies. The value of these payments are currently determined to be $0.250 per pound for tomato concentrates and $0.104 per pound for peeled, canned tomatoes.

Dextrines and soluble and chemically treated starches derived from potato starch imported from the European Community receive export restitution payments, as well as production subsidies. These subsidies provide an overall benefit of $0.076 per pound for all EC exports of this merchandise. Furthermore, the Government of the Netherlands provides additional aid to its exporters of this merchandise in the form of investment assistance, which is equal to 1.6 percent ad valorem of the f.o.b. import value of the Dutch-produced goods.

In the correspondence of January 4, 1980, non-quota cheese from Norway was inadvertently omitted from the list of priority waiver cases. These cheeses benefit from a "basic subsidy" on the milk used in the production of cheese, and a "consumer subsidy" on the cheese itself. There are four types of cheese involved: Nokkelost with 45 percent dry matter, $0.612/lb; Nokkelost with 30 percent dry matter, $0.513/lb; Gammelost, $0.374/lb; and Gjetost, $0.612/lb.

I trust this information, along with that contained in the enclosed submissions from the EC, Denmark, Canada, Norway and Italy will suffice for your purposes. If you have any questions, please do not hesitate to contact me or my staff at 566-8585.

Sincerely,

Richard B. Self

Richard B. Self
Director
Office of Policy

6 Enclosures

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APPENDIX C

THE COMMISSION'S NOTICE OF INVESTIGATIONS AND HEARING AND ITS NOTICE OF TERMINATION OF THE INVESTIGATION ON NONQUOTA CHEESE FROM NORWAY

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Inv. Nos. 701-TA-52 thru 701-TA-61 (Final)

CERTAIN NONQUOTA CHEESE FROM THE EC AND NORWAY

Notice of Investigations and Hearing

AGENCY: United States International Trade Commission.

ACTION: Institution of 10 countervailing duty investigations to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports of certain nonquota cheese from member States of the European Communities and Norway.

EFFECTIVE DATE: February 5, 1980.

SUPPLEMENTARY INFORMATION: Section 104(a) of the Trade Agreements Act of 1979 requires the Commission to conduct countervailing duty investigations in cases where the Commission has received the most current net subsidy information pertaining to any countervailing duty order in effect on January 1, 1980, which had been waived pursuant to section 303(d) of the Tariff Act of 1930, and which applies to merchandise other than quota cheese (as defined in section 701(c)(1) of the Trade Agreements Act of 1979). On February 5, 1980, and February 28, 1980, the Commission received information with respect to certain nonquota cheese from member States of the European Communities and from Norway. Accordingly, the Commission hereby gives notice that it is instituting the following investigations pursuant to section 705 of the Tariff Act of 1930, as added by title I of the Trade Agreements Act of 1979. These investigations will be subject to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR, 44 FR 76457) and, particularly, subpart C thereof, effective January 1, 1980.

PUBLIC HEARING ORDERED: A public hearing in connection with the investigations

will be held on Wednesday, May 21, 1980, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, N.W., Washington, D.C. 20436, beginning at 10 a.m., e.d.t. Requests to appear at the hearing should be filed [illegible] with the Secretary to the Commission not later than close of business (5:15 p.m., e.d.t.), Friday, May 15, 1980. For further information, consult the Commission's Rules of Practice and Procedure (19 CFR 207.23).

PREHEARING STATEMENTS: The Commission will prepare and place on the record by April 28, 1980, a staff report containing preliminary findings of fact. The Commission will serve the public portion of the staff report on the parties no later than April 28, 1980. Parties to the investigation will submit to the Commission a prehearing statement by May 13, 1980. Prehearing statements proferred after the close of business, May 13, 1980, will not be accepted. Each prehearing statement should include the following:

(a) Exceptions, if any, to the preliminary findings of fact contained in the staff report;
(b) Any additional or proposed alternative findings of fact;
(c) Proposed conclusions of law; and
(d) Any other information and arguments which the party believes relevant to the Commission's determination in these investigations.

WRITTEN SUBMISSIONS: Any person may submit to the Commission on or before the date on which prehearing statements are due a written statement of information pertinent to the subject matter of the investigations. A signed original and nineteen true copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

| Inv. No. | Product/Country | Prehearing Report to Parties | Deadline for Prehearing Statements From Parties | Hearing Date | Hearing Location | Contact Person |
|---|---|---|---|---|---|---|
| 701-TA-52 | Certain nonquota cheese 1/ from Belgium | April 28, 1980 | May 13, 1980 | May 21, 1980 | ITC Building Washington, D.C. | Robert Eninger (202) 523-0312 |
| 701-TA-53 | Certain nonquota cheese 1/ from Denmark | " | " | " | " | " |
| 701-TA-54 | Certain nonquota cheese 1/ from the Federal Republic of Germany | " | " | " | " | " |
| 701-TA-55 | Certain nonquota cheese 1/ from France | " | " | " | " | " |
| 701-TA-56 | Certain nonquota cheese 1/ from Ireland | " | " | " | " | " |
| 701-TA-57 | Certain nonquota cheese 1/ from Italy | " | " | " | " | " |
| 701-TA-58 | Certain nonquota cheese 1/ from Luxembourg | " | " | " | " | " |
| 701-TA-59 | Certain nonquota cheese 1/ from the Netherlands | " | " | " | " | " |
| 701-TA-60 | Certain nonquota cheese 1/ from the United Kingdom | " | " | " | " | " |
| 701-TA-61 | Certain nonquota cheese 2/ from Norway | " | " | " | " | " |

1/ Fiore Sardo and Pecorino cheeses, made from sheep's milk, not grated or powdered, of a fat content, by weight, not exceeding 40%, and a water content, by weight, of the non-fatty matter not exceeding 47%, provided for in TSUS items 117.65, 117.67, or 117.70; and Feta cheese, made from goat's or sheep's milk, not grated or powdered, of a fat content, by weight, not exceeding 40%, a water content, by weight, of the non-fatty matter exceeding 62% but not exceeding 72%, and with a fat content, by weight, of the dry matter of 39% or more, all the foregoing in containers holding brine, provided for in TSUS items 117.70, 117.75, or 117.88.

2/ Gjetost cheeses provided for in TSUS items 117.30, or 117.35; Gammelost cheeses provided for in TSUS item 117.60; and Nokkelost cheeses, with a fat content, by weight, of the dry matter of 30%, or of 45%, provided for in TSUS item 117.60.

FOR FURTHER INFORMATION CONTACT: Robert Eninger, Investigative Staff, U.S. International Trade Commission, (202) 523-0312.

By order of the Commission.

Kenneth R. Mason
Secretary

Issued: March 6, 1980

52

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

[19 CFR 207.40]

Inv. No. 701-TA-61 (Final)

NONQUOTA CHEESE FROM NORWAY

Notice of Termination of Countervailing Duty Investigation

AGENCY: U.S. International Trade Commission

ACTION: In view of the withdrawal by the petitioner of the petition upon the basis of which the above-captioned investigation was initiated, the Commission hereby terminates such investigation pursuant to section 704(a) of the Tariff Act of 1930.

EFFECTIVE DATE: March 19, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger, Office of Investigations, telephone number (202) 523-0312.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, subsection 104(a)(1)(C), requires the Commission to conduct countervailing duty investigations in cases where the Commission receives the most current net subsidy information pertaining to any countervailing duty order in effect on January 1, 1980, for which the Secretary of the Treasury has waived the imposition of countervailing duties under section 303(d) of the Tariff Act of 1930, and which applies to merchandise other than quota cheese, which is a product of a country under the Agreement. On February 5, 1980, the Commission received such information from the U.S. Department of Commerce regarding nonquota cheese from Norway.

Section 704 of the Tariff Act of 1930 permits the Commission to terminate countervailing duty investigations upon withdrawal of the petition by the petitioner. On March 3, 1980, the Commission received a letter from the National Cheese Institute, the original petitioner for a countervailing duty order, requesting that its petition in the matter of nonquota cheese from Norway be withdrawn. By this notice the Commission gives notice that it is granting the request of the National Cheese Institute by terminating the investigation of nonquota cheese from Norway.

In addition to publishing this notice in the Federal Register, the Commission is notifying the Department of Commerce of its action in this case.

By order of the Commission:

Kenneth R. Mason
Secretary

Issued: March 19, 1980